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Ontario.

WDW Panel Recommendations on
Local Governance

"Who Does What"

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News Release Communiqué

December 6, 1996

GTA-wide service board essential, Crombie panel says

The five regional governments in the Greater Toronto Area should be replaced by a Greater Toronto Services Board, the Who Does What panel recommended today.

In the first of two letters given to Municipal Affairs and Housing Minister Al Leach today, panel chair David Crombie said GTA member municipalities should be consolidated into strong cities, and there should be a consolidation within Metro Toronto to create a strong urban core for the GTA. When Metro Toronto was formed more than 40 years ago, it worked because it had at its centre a strong core -- the City of Toronto -- surrounded by and "stapled to" several suburban municipalities, Crombie said. He said the same principles apply on a larger scale today.

The panel also recommended that the province immediately appoint an implementation commissioner, who could also act as the interim chair of the Greater Toronto Services Board. The commissioner's job would be to establish the board, to develop and implement the municipal consolidations, including the core city, and to develop a system of municipal representation by population for the board which would include the mayors of the consolidated municipalities.

The board's role should focus on service co-ordination, and the newly-consolidated municipalities should undertake more responsibility for service delivery.

In addition to recommending structural changes for the GTA, the Who Does What panel made structural recommendations for the rest of the province as well. For Northern Ontario, the panel recommended the establishment of single-tier district-wide governments covering currently unorganized territory to coordinate services now delivered by small boards, agencies and the provincial government.

Existing northern municipalities would be strengthened through consolidations and annexations, so their jurisdictions would reflect communities and service areas. These municipalities would be included in the larger district-wide bodies, in a modified county arrangement, for the purposes of area-wide services such as police, social services, planning and development.

Within the province's county system, which covers much of southern Ontario, the panel recommended retaining the two-tier system except where there is a compelling and locally agreed-upon single-tier option. The number of local municipalities within counties should be greatly reduced through amalgamations to create stronger governments able to deliver services.

(more)

Separated cities, which are physically attached to counties but do not participate in county government, would be brought into the county federation except where they are too large to fit comfortably into the county system. The panel recommended that there be additional flexibility for counties to determine how county councillors are chosen.

The panel also looked at the province's regional governments outside the GTA. The panel recommended strengthening regional governments, either by establishing a one-tier government, or by consolidating lower-tier municipalities into stronger units as part of a two-tier structure. The panel also encourages the province to move quickly on local restructuring initiatives now under way in Ottawa-Carleton and Hamilton-Wentworth.

It suggested looking at regional boundaries to ensure they include entire communities of interest, and recommended most regional councillors, including the chair, be directly elected. Where there has already been a regional review including public consultation and debate, the province should appoint an independent commissioner to make recommendations on governance reform.

In a second letter released today, Crombie and Dr. Peter Meyboom, chair of the sub-panel on municipal administration, recommended a complete overhaul of Ontario's Municipal Act. It should be replaced, they said, with a streamlined legislative framework that would give municipalities significantly more flexibility and autonomy. The sub-panel recommended that municipalities be given all the powers of a natural person, so they would no longer need special legislation to authorize minor changes in the way they go about their business. At the same time, they would be given clearly defined areas of responsibility. They would also be given certain broad governmental powers to allow them to do things -- like passing bylaws and collecting taxes -- that ordinary people cannot do. However, the sub-panel was clear that, while financial provisions should be streamlined, there should continue to be controls on financial dealings to protect the financial integrity of the province as a whole.

The "Who Does What" panel was appointed May 30 to begin a complete overhaul of who does what in the delivery and funding of many government services. The goal is to ensure the very best service delivery by reducing waste, duplication and the over-all cost of government at the provincial and local government levels.

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Attention editors:

The panel's letters to the Minister are available at the Ministry of Municipal Affairs World Wide Website (<http://www.mmah.gov.on.ca>). If you do not have access to the Internet, you can receive copies by fax by calling 1-800-269-6397 and requesting story code 26930 (governance, English), 26905 (governance, French), 26906 (municipal administration, English) or 26907 (municipal administration, French).

Disponible en français

December 6, 1996

The Honourable Al Leach
Minister of Municipal Affairs and Housing
17th Floor, 777 Bay Street
Toronto ON M5G 2E5

Dear Minister:

Re: WDW Panel Recommendations on Local Governance

The "Who Does What" (WDW) process was established to make recommendations to the Government on issues that change the nature of local governance and services and affect how municipalities and others restructure the delivery of local services.

As you are aware, WDW subpanels have reviewed a broad range of local government services and functions. Their recommendations represent a complete overhaul of the way services are delivered in Ontario to ensure improved service delivery, more accountability, and elimination of waste and duplication.

As the primary vehicle for service delivery in Ontario is local government, questions about the capacity, viability and structure of current local governance were raised in the discussions of new service arrangements.

Ontario has historically adjusted its local governance arrangements to meet changing needs and reflect changing communities in a timely way. This ability to evolve has been the foundation of our success in creating some of the world's most attractive and workable places to live, work, do business, enjoy, retire and invest.

After considerable discussion, the Who Does What Panel has reached agreement on recommendations for governance in the North, in Counties, in Regions and Large Urban Centres, and for the Greater Toronto Area (GTA).

The Panel has been guided in its deliberations by the following four principles:

Democracy, Accountability and Responsiveness:

Municipal government is a democratic institution fundamental to local political decision-making. Its structure should be as understandable as possible to promote public access, participation, and accountability. It should respect and accommodate diversity and be responsive to the needs and preferences of communities.

Fairness:

The structure should ensure that costs and benefits are shared fairly across the entire community.

Efficiency:

The structure should allow services to be delivered by the lowest level of government that has the capacity to do so effectively. It should also be more cost-effective than the current system, delivering maximum value with available resources.

Coordination:

The structure should encompass the interests of the entire community. It should support the strategic coordination of certain key services and foster an approach to decision-making which integrates economic, environmental and social considerations.

Need for a legislative restructuring framework

Municipalities need the authority and the flexibility to adapt their governance structures to better meet these principles.

Bill 26, The Savings and Restructuring Act, 1996 provided restructuring mechanisms for municipalities in counties and the north. However, no similar provisions have been made for regions and municipalities within regions and Metropolitan Toronto. Several regions are considering restructuring, yet there is no mechanism for them to implement changes other than through amendment to their specific regional Acts.

Moreover, there should be provision for provincial leadership to appoint a commissioner where there is an obvious need for change, but no local initiative.

The Panel accordingly urges timely implementation of the restructuring process proposals outlined by the Municipal Administration subpanel's letter (attached).

Following is a more detailed context as to how these principles and considerations would apply to four broad sets of circumstances in Ontario: Northern Ontario, Counties, Regions and Large Urban Centres, and the Greater Toronto Area.

Finally, an important principle is that any new governance arrangements must provide for continued respect for the character and needs of francophone communities.

NORTHERN ONTARIO

Northern Ontario represents 90% of the province's geographic area with 850,000 people, or about eight per cent of the population, half of whom are concentrated in five major urban areas: Sudbury, North Bay, Sault Ste. Marie, Timmins and Thunder Bay. The other half are in small scattered municipalities, either adjacent to incorporated municipalities usually along major highway corridors or isolated. There are 186 municipalities in total, which include 93% of the population.

The remaining seven per cent of the northern population (about 50,000 permanent residents and about 150,000 seasonal residents) lives in areas outside municipalities where services are provided by small boards and volunteer organizations largely funded by the Province.

In 1994, these local service organizations included 247 local roads boards, many local road maintenance agreements, 64 local services boards, 22 planning boards, 14 statute labour boards, 104 volunteer fire protection teams, district-wide service boards such as homes for the aged, welfare, health units, children's aid, and a network of school boards with numerous associated recreation committees. Some services (for example police, waste disposal, highway and some road construction and maintenance, engineering inspection and operating expertise for sewer and water services, land-use planning expertise, etc.) are provided directly by the Province at little or no charge to local residents.

There are 102 First Nation Communities.

Unlike Southern Ontario, most of the north has never had a two-tier local governance system (the Region of Sudbury, established in 1972 is the sole exception).

Current environment

- ▶ Most of northern Ontario is "unorganized" or "unincorporated". This means that there are no municipalities, no local government bodies, no counties or regions (excepting Sudbury) and the ten territorial districts do not function as governments or administer services.
- ▶ Service delivery bodies in unorganized areas overlap geographic areas in some cases, or leave unserved gaps between them. They are too small and single-purpose to realize economies of scale or savings from alternate service delivery.

- ▶ Municipalities recover some of the costs of providing services to residents in adjacent unorganized areas through user fees set specifically for non-residents; others (e.g. streetscape improvements, parks and other public infrastructure) do not lend themselves to cost recovery in this manner.
- ▶ Municipalities with fringe development in unorganized territory are hampered by smaller tax bases, reduced general revenue flexibility and diminished economies of scale than would otherwise be expected for the size of the urban areas of which they are the nucleus. Services not easily met by user fees, such as land-use planning, may suffer as a result, or must rely on provincial assistance.
- ▶ The antiquated Provincial Land Tax levied in unorganized territory is largely nominal (e.g. \$50 per property is common) and paid to the province's consolidated revenue fund. Boards of education do levy, although areas outside of school board jurisdictions escape even this tax.

Northern imperatives

As the Province withdraws from direct funding and program delivery and assigns greater autonomy to local governments, the question of future service delivery in the north is more acute than for anywhere else in Ontario, as northern governance is the most sparse, fragmented, and the most dependent on direct provincial support.

Particularly in unorganized areas, current arrangements for hundreds of fragmented special purpose bodies will be unable to sustain changes now occurring in the provincial/municipal relationship, as the Province withdraws from purely local service delivery.

Vision for the north

The panel's vision for the north is one of a smaller number of stronger, larger municipalities within a system of governance which would include unorganized areas. "Less government" would be achieved by collapsing the hundreds of special purpose bodies into a handful of single-tier governance bodies and by substantially reducing provincial staff involvement.

For the first time, there would be a local governance structure of northern residents making their own decisions, capable of providing area-wide services with reduced provincial funding, and with a democratic and representative decision-making body accountable to residents, not to the Province.

Options considered:

Option I: District-wide Single-tier Governance

This form of governance would amalgamate all of the existing municipalities into one municipal body in each district. All of the unorganized areas would be included in that one incorporated municipality, representing the entire geographic district.

Option II: One-tier/ Two-tier Governance Combo

This form of local governance would provide for a single-tier council or board for local service delivery to unorganized areas within a defined geographic area similar to a district. Municipalities would continue providing local services and would be represented on the larger district-wide body (modified county system) which would provide the municipal residents and unorganized residents with coordinated area-wide services such as planning and development, social services, police, etc.

Option III: Area-wide Service Delivery Agencies

The existing governance structure would be retained. Discretionary services (local roads, fire, recreation, water and sewer, etc.) would continue to be delivered by municipalities and volunteer organizations in unincorporated communities. Consideration could be given to:

- amending the Local Service Board Act to allow funds to be raised to provide all services, including roads, in unincorporated communities;
- delivering mandatory services (welfare, policing, homes for the aged, etc.) through area-wide delivery agencies. These would be governed by a board of directors with representatives appointed by municipal councils and elected at community meetings in unincorporated areas. Cost would be apportioned according to population.

Funds from municipalities would be raised by property taxation. Funds from unincorporated communities would be raised through levies on the Provincial Land Tax base. Communities would define their own area of common interest for service delivery.

Recommendations

The Panel recommends Option II: One-tier/Two-tier Combo. This governance model would continue to draw on the participation of volunteers and existing municipalities, but would provide northern Ontario with access to its own tax base. It would give Northerners the tools to make their own decisions and be self-sufficient. It would rationalize ad hoc and inefficient service delivery and reduce government in the north.

- ▶ strengthen existing incorporated municipalities by amalgamations and/or annexations so that their jurisdictions reflect whole communities and service areas.
- ▶ for areas with no municipal organization, establish one-tier area-wide governance bodies (similar in size to current districts, but with boundaries based on communities of interest and service areas)
 - to consolidate and coordinate services currently delivered by small boards, agencies and by staff of half a dozen ministries;
 - with elected members of a board or council, to provide local decision-making and accountability;
 - with the authority to tax, charge user fees and set area rates, thus replacing the Provincial Land Tax.
- ▶ include incorporated municipalities in the larger district-wide body (modified county structure) for purposes of area-wide services such as police, social services, planning and development, etc.

COUNTIES

Ontario's 26 counties cover all of rural southern Ontario, with a total population of about 2 million in some 484 local municipalities. Most counties do not include the 17 cities that lie within their geographic boundaries and which are "separated" from the county system, operating as single-tier municipalities. There are also four separated towns which predated the formal creation of county government in 1849, and one separated township (on Pelee Island). (See Appendix B chart.)

Counties originally provided a limited range of services. They maintained a county road system, operated a court house, jail and land registry office, and established and ran homes for the aged. While the Province has taken over administration of justice, counties have become involved to various degrees in such things

as delivery of social services, land-use planning, libraries, economic development, recreation, cultural services and waste disposal.

Some of Ontario's most viable counties have gradually taken on a wide range of responsibilities. Others, particularly where representation on county council has become badly distorted, may provide only two or three functions. This has created serious problems, as an increasing number of services are planned, delivered and funded more efficiently on a county-wide or regional basis.

Local municipalities within a county also vary considerably -- from large, almost entirely urban communities to rural municipalities, to those that mix the two extremes. Populations of local municipalities within counties vary from the Village of Sturgeon Point in Victoria County with 103 residents to Kingston Township in Frontenac County with almost 40,000 people. Many counties, like Bruce, have a large number of municipalities serving a relatively small population (30 municipalities for 60,000 residents); while Simcoe County at the other extreme, has 16 municipalities serving 205,000 people.

In the late 1980's, two provincial reviews of the county government system were undertaken. These reviews were prompted by the ever-increasing number and severity of municipal boundary disputes; unfair representation and taxation at the county level; competition for assessment; and the difficulty small, fragmented and financially weak municipalities experience delivering services to their residents.

The first comprehensive review was the 1987 Report of the Advisory Committee on County Government to the Minister of Municipal Affairs. This was followed by the 1988 Consultation Committee report which expanded on the recommendations of the first review.

The government's response was to establish principles for a strong county system, legislative changes to provide more flexibility for electoral and representation matters, a process for dissolution of police villages, and a review of grant programs that perpetuated inequities and inefficiency.

A county study program was established in 1989 that resulted in 10 reviews by county councils with provincial staff providing research, analysis and expertise. It was designed as a locally-driven, bottom-up approach to county restructuring. Only Simcoe County carried through on its study by lobbying the Province to implement its restructuring plan.

Current Environment

- ▶ despite wide agreement with the findings of the two reviews on the county system, and wide acceptance and take-up of the county study process for restructuring, only one county (Simcoe) followed the process through to implementation of a restructuring plan.
- ▶ informal discussion with the counties that did not complete the county study process revealed that many heads of councils were unwilling to risk losing their positions; or were unwilling to force amalgamations that would cause others to lose their elected positions. Most said they relied on the Province to carry through on the studies.
- ▶ communities within counties have evolved over the past 150 years, often substantially, but adjustments to municipal governance to reflect this development have lagged badly, creating taxation and representation inequities, boundary disputes, competition for assessment, poor planning and lack of adequate servicing among county municipalities and between county municipalities and separated municipalities.
- ▶ the historical distinction between urban and rural communities, lifestyles and values has blurred with the mingling of seasonal residents of all backgrounds, urban retirees, rural "non-farm" economies, and a growing farm population with university backgrounds, internet hookups, computerized farm management systems, and often full-time jobs in the nearest urban centre.

County imperatives

- ▶ Ontario has hundreds of small municipalities which are unable to afford or deliver local services without substantial provincial subsidization.
- ▶ Without fixing the representation and taxation problems of many county governments, there is concern over assigning them additional responsibilities. Yet a strong upper-tier federation is urgently needed to cope with area-wide economic, environmental and social issues and new responsibilities being devolved from the Province.
- ▶ There is widespread support for a strong two-tier county system and widespread acceptance of the need for county restructuring.
- ▶ A wide variety of restructuring options have been raised and discussed across the Province, including one-tier options for several counties where population and geography are

relatively restricted, and for bringing separated municipalities back into the county system wherever possible.

- ▶ The ad hoc annexation of lands by separated cities on a periodic basis erodes a county's assessment base, and inhibits sharing of expertise and the efficiencies of area-wide service delivery.

Vision for counties

A stronger two-tier county system with fewer, stronger lower-tier municipalities capable of funding and delivering services, and a directly-elected county council that includes cities and separated towns in the county federation. Some counties are likely to consolidate their governance into a single-tier structure in the near future, but the two-tier structure will remain appropriate for most of Ontario's rural areas for some time to come.

Options

Option I: One-tier counties

While this may be an appropriate option for some counties, others are too geographically large, with community profiles of such diversity that they could not be adequately represented by a single local government.

Option II: Stronger two-tier counties

A stronger county option addresses the urgent need for equitable representation on county council, to amalgamate small municipalities so that they are able to deliver services to their residents, to bring cities back into the county system to share resources and provide comprehensive area-wide planning and decision-making.

Recommendations:

- ▶ Maintain and strengthen the two-tier county system of governance, except where a one-tier structure is a compelling and locally agreed-upon option.
- ▶ Reduce the number of area municipalities by amalgamation to create strong local governments capable of delivering services and encompassing interdependent urban and rural communities.
- ▶ Bring separated cities and towns back into the county federation where separated cities or towns have a smaller or similar population base to the surrounding county. (See Appendix B population chart.)

- ▶ Separated cities such as Windsor, London, Guelph and the new City of Kingston may be too large to fit comfortably into a county system. In such cases, appropriate sharing of costs between the separated city and the surrounding county must be established.
- ▶ Provide flexibility for:
 - direct election to county council by ward, with head of council directly elected for the term of council; or
 - a combination of indirect election of heads of lower-tier councils, and direct election of other county councillors from within lower-tier boundaries, with weighted voting if necessary. Head of county council to be directly elected for the term of council.

REGIONS AND LARGE URBAN CENTRES

The creation of regional governments (modelled on Metro) in fast-growing areas of the province was the government's response to the challenges and environmental crises created by rapid urban growth. The smaller, more fragmented and financially weaker county structures were not able to plan, fund and build the infrastructure and services needed for rapid urban development.

Regions are stronger and generally more urbanized versions of counties, with much larger lower-tier municipalities, cities included as part of the regional governance structure, and greater responsibility for key economic and environmental area-wide services such as planning and infrastructure.

Regional governments created in the 1960s and 1970s include Haldimand-Norfolk, Waterloo, Hamilton-Wentworth, Niagara, District of Muskoka, Sudbury, Ottawa-Carleton, the GTA regions of Halton, Peel, York, Durham, and the Restructured County of Oxford.

Regions outside the GTA are now home to 2.25 million residents; while the four GTA regions (Halton, Peel, York, Durham) include 2.2 million people.

In a small number of cases, the need to plan and service urban growth led to the gradual creation by annexation of large single-tier urban centres. The most recent examples of single-tier urban consolidations include the 1992 annexations to the City of London, Ontario; and the proposed amalgamation of the City of Kingston with the Townships of Kingston and Pittsburgh. There are 17 separated cities in Ontario, ranging from the City of London at 325,000 population to the City of Pembroke, with 13,500.

Current environment

- ▶ in some regions, differences between original urban and rural municipalities have disappeared as urban development was nurtured by the region's tax base and infrastructure investments;
- ▶ fragmentation of service delivery and fiscal policy among similar urban entities over time creates inequities, unfair taxation, duplication and inefficiency for residents and businesses;
- ▶ with diminishing provincial grants, the financial viability of many lower-tier municipalities within regions may become questionable;
- ▶ fragmentation dilutes the "voice" an urban area has with provincial and federal governments and for international trade;
- ▶ in some regions, representation by population has become badly skewed, creating democratic inequities, distorted decision-making and unfair taxation.
- ▶ for large urban areas, annexation has historically been difficult, lengthy and often extremely costly to achieve. As well as opposition from the annexe, or from residents of annexed areas fearing tax hikes, there is also the difficulty that a substantial annexation to a separated municipality can destroy a county's financial viability.

Regional imperatives

- ▶ all Ontario's regions have had at least one, and often several, major reviews of their structure, functions and representation, but with little action on the recommendations of most of the reviews.
- ▶ these comprehensive reviews were expensive (generally half a million dollars), included wide public consultation, and identified serious difficulties and issues that had evolved as communities changed.
- ▶ a mandated provincial process is necessary for any meaningful reform to occur in regions or for annexations to separated cities.
- ▶ urban regions evolve and develop, and their municipal structures should evolve to serve them.

- examples of regions where a one-tier consolidation has been actively discussed include Ottawa-Carleton and Hamilton-Wentworth.

Vision

Regions and large urban centres that are able to maintain basic community services in the face of great fiscal pressures; support infrastructure and promote a climate of investment to create jobs and foster economic competitiveness; and promote economic, environmental and social sustainability.

Options considered

Option I: One-tier regions

Consolidate all lower-tier municipalities with the regional municipality for a single local government with one mayor, one council. This option may be most appropriate where the distinctions between urban and rural municipalities within a region have become blurred by urbanization, and where there is a correspondingly greater need for "seamless" delivery of services across the entire community.

Option II: Stronger two-tier regions

Rationalize governance within a two-tier regional system by amalgamating lower-tier municipalities to form stronger units, addressing representational inequities at regional council, establishing direct election to regional council.

Many regional government reviews have examined various options applicable to each region's particular circumstances. These options may still be relevant. What has been missing is an implementation model capable of bringing closure to reform discussions. Large urban centres have a similar problem -- the difficulty in effecting needed boundary change -- and have had to rely on Provincial intervention for most significant annexations.

Hamilton-Wentworth has a locally negotiated agreement to consolidate as a single municipal government, an agreement which has been endorsed by the Minister of Municipal Affairs. Ottawa-Carleton is seeking the appointment of a mediator. The Province is encouraged to move quickly on both these initiatives.

Recommendations

- examine whether, for some regions, a consolidated one-tier structure may be appropriate to reflect current realities and future needs; in others, consolidation of lower-tier municipalities may be the best response.

- ▶ examine the usefulness of external regional boundaries in any regional governance review. Where a community of interest extends beyond current regional boundaries, consideration should be given to changing them.
- ▶ where a two-tier structure remains, a majority of regional council should be directly elected, including the chair of regional council, to provide the mandate for a broader regional focus, not a brokering of local interests.
- ▶ where a regional review has been held which provided for public consultation and extensive public debate, the Province should appoint a single arbitrator or independent commissioner to make recommendations on governance reform,
 - after review of all historical documentation, review and analyses on reform particular to the region;
 - proposing a solution that is the best for the area, which complements these recommendations, rather than an attempt to find common ground or the lowest common denominator of acceptability.

GREATER TORONTO AREA

When Premier Leslie Frost created Metropolitan Toronto with 13 area municipalities in 1953, it was more than a political innovation. It was an economic act that allowed growth and the orderly expansion of the city by stapling the suburbs to the downtown.

The creation of Metro recognized the economic need for coordination of services and provided a forum for the municipalities in Metro to develop together. It provided necessary support services throughout the area to recognize the challenges of growth.

Original service responsibility assigned to Metro included planning, water, sewer and road infrastructure and public transit. In its first eight years, Metro constructed about 200 miles of trunk sewer and watermains; two new sewage treatment plants and remodelled five others; 85 miles of roads and 101 new bridges. Also of note was the creation of the Metropolitan Toronto Planning Board, which included Metropolitan Toronto and significant components of the current Regions of Peel, York and Durham.

In 1967, the 13 area municipalities were further consolidated into the current six. Metro became a greater vehicle for social equity when it was assigned responsibility for social services

including homes for the aged, children's services, welfare, public housing and education pooling. This ensured that both the social burdens and benefits would be shared by the entire community.

This contributed to a strong, healthy city core, and as Toronto prospered and grew economically, so did the Metro suburbs.

Metro quickly became the model for regional governance for Ontario. In the 1960's and 70's, Peel, Halton, York and Durham regions were established in what is now referred to as the Greater Toronto Area. The GTA covers some 7,200 square kilometers and includes a total of 30 lower-tier and five upper-tier municipalities. In the past decade, these regions have become the fastest-growing areas of the Province.

In 1988, direct election to Metro council was established to allow for a broader, more regional perspective -- but many were already saying that the difficult issues were not Metro-wide, but rather GTA-wide.

The 1953 restructuring was premised on a strong political core within Metro. The City of Toronto had 12 of the 24 Metro council positions. With growth in the suburbs, the strength of the core has diminished and will continue to do so without a change in the structure of the municipalities. Based on current population projections, the City of Toronto as it now stands will have only one-sixth of Metro's population by the year 2021 and only 10% of the forecast 6.5 million for the GTA. Within the GTA, Metro currently has about half the population and will move to about one-third by 2021.

Current environment

Each of the regions in the GTA is at a different stage of evolution today. Each has its own particular characteristics:

- ▶ Peel has become lopsided in its growth, with Mississauga now containing 70% of the region's population without having 70% of the vote at regional council. Representation by population has been distorted.
- ▶ York and Durham Regions have been discussing municipal restructuring to consolidate their local municipalities, but need a provincially mandated process.
- ▶ In Halton, a Halton Region Review has been examining future options.
- ▶ Metro was created in 1953 and had its last municipal amalgamations in 1967.

- ▶ Most of the comments pertaining to Regions and Large Urban Centres apply even more strikingly to the regions within the Greater Toronto Area. For instance, growth has distorted representation systems and created need for greater service coordination.
- ▶ As Toronto has fuelled growth outward, the regions have become increasingly economically interdependent with Metro. Municipal government structure has not kept pace, however, with the regional reality. Important services that cross municipal boundaries requiring coordination today extend beyond even the regions of the GTA and include:
 - public transit
 - economic development strategy
 - regional planning
 - environmental services
 - coordination of police and emergency services
- ▶ Challenges to the future of a vital GTA include an inequitable and eroding tax base; outdated infrastructure; inefficient urban development patterns; fragmented economic development that hinders competing on a global basis; and inadequate governance structure, which is key to addressing the other challenges.
- ▶ The Golden Task Force on the Greater Toronto Area documented these inequities, interdependencies and future needs for the GTA. It recommended eliminating the upper-tiers in the GTA; significant new responsibilities for local governments; creation of an indirectly-elected GTA government to deal with area-wide issues, and a process for local consolidations.
- ▶ The Four Mayors report, "Moving Ahead", also recommended elimination of regions and the need for creation of a GTA intermunicipal agency to deal with spillover services. It recognized that strong accountability lies at the lower tier. The report recommended a GTA services board with no taxation authority and with funding based on service consumption.
- ▶ Mayor Peter Robertson of Brampton produced a seven point plan that included provincial/municipal reform, new assessment and tax system, a permissive Municipal Act, a GTA coordinating forum and locally-driven municipal consolidations. The Mayor has stated that these consolidations could be achieved within three months.

GTA imperatives

- ▶ the GTA is a single economic unit, fully integrated in terms of employment opportunities, commuting patterns, transportation networks and infrastructure.
- ▶ transit, economic development, regional planning, and environmental services not only cross the current GTA but go beyond. These must be addressed by some form of coordinating body.
- ▶ three levels of local government is not acceptable; if a GTA coordinating body is established, then there must be some consolidation of upper and lower tier municipalities in the four regions and Metro; and some consolidation of the number of municipalities across the GTA.
- ▶ by consolidating municipalities within the GTA, it is possible to create municipal configurations based on the ability to afford and the ability to deliver more services locally.

GTA governance vision

The establishment of a Greater Toronto Area coordinating body to provide:

- ▶ coordination of strategic area-wide services such as public transit and environmental services;
- ▶ leadership on economic development strategies and sustainable regional planning; and
- ▶ coordination of linked services such as police and emergency services.

A smaller number of large cities, with a strong urban core city of Toronto that will be able to deliver local services effectively, and provide avenues for democratic citizen participation and accountability.

The Panel believes that what is needed today is a mechanism to knit municipalities in the regions to the Toronto core in much the same way that the 1953 governance arrangements did with downtown Toronto and the Metro suburbs.

Recommendations

1. The Panel recommends that the Province implement a GTA governance structure based on three fundamental and interrelated imperatives:

- ▶ creation of a Greater Toronto Services Board (GTSB) eliminating the five upper-tier municipalities;
- ▶ consolidations of member municipalities into strong cities;
- ▶ consolidations in Metro that create a strong urban core for the GTA.

The Panel agreed that a Greater Toronto Services Board is of overwhelming importance. The Panel was unanimous in endorsing the importance of a strong urban core, with views on strengthening the core ranging from one city to four. All were agreed that consolidations should significantly enhance the political strength of the core city within the Greater Toronto Area.

2. The Panel recommends the Greater Toronto Services Board should have the following characteristics:

- ▶ represent a geographic area for the planned provision of services for the next 25 years
- ▶ representation from municipalities based on population
- ▶ no direct taxing authority. Member municipalities and their residents pay on the basis of user charges, assessment or population. For different functions, different revenue sources will be utilized.
- ▶ an important function of the GTSB would be to act as a forum for discussion, coordination and innovation.

The GTSB should focus on ensuring the coordination of:

- ▶ regional roads and expressways
- ▶ waste management
- ▶ sewer and water - distribution and treatment
- ▶ hydroelectric distribution
- ▶ public transit integration and coordination
- ▶ police board coordination
- ▶ regional and infrastructure planning
- ▶ social planning and coordination
- ▶ watershed management

It is the Panel's view that the GTSB should have a limited central administration. Most functions would be provided by member municipalities or private and partnership arrangements.

The GTSB external boundaries would be porous, allowing participation by contiguous neighbouring municipalities through purchase of services, infrastructure planning, economic promotion, and other activities as appropriate.

In order to contain urban sprawl and provide for efficient use of infrastructure, an urban zone should be identified within the GTA within which all development will be concentrated for the next 25 years. Areas beyond the urban zone would not be extended services or have large development proposals approved, but would be represented on the Services Board.

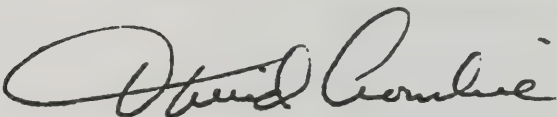
3. The Panel recommends that the Province mandate the following implementation strategy:

► Immediately appoint an implementation commissioner who could act as interim chair of the Greater Toronto Services Board. The implementation commissioner's mandate would be:

- to establish the GTSB as a first priority;
- to develop proposals for municipal consolidations, with a report by April 1997; and to implement the consolidations effective January 1, 1998.
- determine GTSB membership based on the population of the newly consolidated cities, by April 1997.

This letter completes the Panel's review of local governance. The Panel is working on a final report which should be concluded prior to Christmas.

Sincerely



David Crombie
Chair
Who Does What Advisory Panel

cc: Who Does What Advisory Panel members

Appendix A

COUNTIES AND SEPARATED MUNICIPALITIES				
County	# Lower-tier	Pop.	Separated	Pop.
Brant	6	29,000	Brantford	81,000
Bruce	30	61,500		
Dufferin	8	41,000		
Elgin	15	44,000	St Thomas	30,000
Essex	21	141,500	Windsor Pelee Township	196,000 261
Frontenac	15	67,000	Kingston	60,000
Grey	26	40,700	Owen Sound	20,400
Haliburton	10	13,900		
Hastings	27	56,000	Belleville Trenton	35,000 17,000
Huron	26	59,000		
Kent	21	62,000	Chatham	40,000
Markham	16	45,500	Smiths Falls	9,000
Meekins and Grenville	22	59,500	Brockville Gananoque Prescott	21,500 5,000 4,000
Monk and Addington	13	35,500		
Middlesex	21	56,000	London	325,500
Northumberland	15	75,500		
Oxford	14	35,100	Stratford St. Marys	29,000 5,500
Peterborough	18	49,500	Peterborough	66,500
Prescott and Russell	18	70,500		
Prince Edward	10	22,500		
Renfrew	36	77,000	Pembroke	13,500
Simcoe	16	204,600	Barrie Orillia	71,500 27,400
Stormont, Dundas and Glengarry	20	60,500	Cornwall	47,000
Victoria	18	63,000		
Wellington	21	69,400	Guelph	93,000
Windsor	220, including Sarnia	122,000	Sarnia (formerly)	70,000
Woodstock	8 including Woodstock	100,000	Woodstock (formerly)	31,000

Region	# of Lower Tier Municipalities	Population (1995)
Metro	6	2.2 million
Durham	8	422,000
Haldimand-Norfolk	6	97,000
Halton	4	315,500
Hamilton-Wentworth	6	458,000
District of Muskoka	6	50,000
Niagara	12	415,000
Ottawa-Carleton	11	693,000
Peel	3	879,000
Sudbury	7	156,400
Waterloo	7	383,400
York	9	560,000

December 5, 1996

The Honourable Al Leach
Minister of Municipal Affairs and Housing
17th Floor
777 Bay Street
Toronto, Ontario
M5G 2E5

Dear Minister Leach;

In order to have accountable, self-reliant and democratic municipal entities, in our August 14th correspondence to you we proposed that the new municipal legislation be based on the principle of permissive rather than prescriptive law. The Better Local Government Act which you introduced recently was the result of this first stage of discussions. Now, we are pleased to submit to you our second letter containing recommendations with respect to **Stage 2 of the municipal reform initiative**.

In its deliberations, the Municipal Administration Sub-panel has continued to focus on the objectives of the Who Does What (WDW) initiative: to clarify provincial and municipal roles and responsibilities; streamline legislation and reduce duplication; provide flexibility for municipalities to develop new innovative approaches; decrease the size of government at both the provincial and municipal levels; and, allow municipalities to manage their affairs in a cost-effective manner.

The current Municipal Act dates back to the 1800s. Its underlying principle is that municipalities may only undertake activities that have been expressly authorized in the legislation. Hence, municipalities have required legislative approval for virtually every action. Where the Act is silent it means that the activity is prohibited. Over the years, countless amendments have been made to the Act following the same prescriptive framework. This has resulted in a complex, limiting, and unwieldy piece of legislation.

Natural Person Powers

We propose to replace the present Act with a streamlined legislative framework that would give municipalities significantly more flexibility and autonomy. As highlighted in our August 14th memorandum, natural person powers would be one of the basic tenets of the approach in a new Municipal Act. According municipalities the authority, rights, powers, and privileges of a natural person would facilitate a more permissive approach and minimize red tape.

Natural person powers would allow a municipality to: organize itself and set its administrative priorities; purchase land and buildings; hire, dismiss employees and provide employee benefits; delegate responsibilities to other individuals or bodies; contract for services; enter into agreements with individuals, corporations and individuals; borrow, pool and invest money; sue and be sued; provide and charge for goods and services; and sell assets. If municipalities have the rights of a natural person, none of these subject areas have to be addressed separately in the new Municipal Act.

Municipalities must retain the confidence of ratepayers, financial institutions and others. It would, therefore, be appropriate to limit the scope of natural person powers in financial matters, for example: raising revenues; financial reporting and disclosure; and, debt and investment. Municipalities should not have the opportunity to be able to declare bankruptcy. Furthermore, "municipal enterprises" should not aim to compete with the private sector, nor to generate profits beyond the requirements of those enterprises. The purpose of such limitations would be to protect the interests of the public, other municipalities, and the Province.

- **The Sub-panel on Municipal Administration recommends that the new Municipal Act be based on a model of permissive legislation which gives municipalities the powers of a natural person.**

Areas of Responsibility and Governmental Powers

Municipalities, as governments, also need some powers which natural persons do not have. These governmental powers include the authority to tax, to regulate, to prohibit and to fine. In Stage 2 of this initiative we have focused on developing a framework for municipalities to make by-laws and to exercise their governmental powers.

It has been our challenge to give municipalities enough flexibility to deal with newly emerging situations without the need to resort to continuous amendment of the Act. Describing general areas of responsibility upon which municipalities can govern and make local laws would achieve this flexibility. It would obviate many of the specific service provisions currently found in municipal statutes, with the qualification that provincial and federal laws in any of the areas continue to take precedence.

Where there is no direct provincial interest unnecessary approval requirements should be eliminated. Finally, to the extent possible, any legislation authorizing or requiring municipal action should be found in one statute - the new Municipal Act.

- **The Sub-panel recommends that the legislation specify that the following areas of responsibility are within the municipal domain:**
 - **health, safety and well-being of people;**
 - **protection to persons and property;**
 - **sewer and water services, and other public utilities;**
 - **waste management - collection, removal, recycling and disposal;**
 - **drainage and flood control;**
 - **roads, bridges, sidewalks, including traffic and parking control;**
 - **transportation systems;**
 - **cultural, historical, and recreational services and facilities;**
 - **economic development and tourism;**
 - **regulation of businesses and business owners/operators (including, home occupations);**
 - **nuisances (for example: odors, emissions, noise etc.);**
 - **conservation of the natural environment;**
 - **structures not subject to the building code, including fences; and,**
 - **animal control - domestic animals and nuisance wildlife.**

- **To make clear that a municipality has the authority to govern within its jurisdiction, the Sub-panel recommends that the legislation delineate the following governmental powers which municipalities could exercise in each of their areas of responsibility:**
 - **the authority to pass by-laws which regulate or prohibit activities within their areas of responsibility;**
 - **to licence;**
 - **to require and establish conditions for licences, approval, or permits;**
 - **to levy taxes on real property and businesses and to collect debts;**
 - **to establish user fees and other charges;**
 - **to provide loans and grants under specific conditions;**
 - **to define offences and establish related fines and penalties;**
 - **to conduct or require inspections or certification of compliance to standards; and,**
 - **to provide remedies for contravention of such standards or municipal by-laws.**

Municipal Structure

Municipalities need the authority and the flexibility to adapt their municipal structures for the efficient and cost effective delivery of services. Bill 26, the Savings and Restructuring Act, 1996, provides locally driven restructuring mechanisms and service migration powers for counties. However, no restructuring provisions have been made for regions and municipalities within regions. Several regions are considering restructuring. Yet there is no mechanism for them to implement such change other than through amendment to their specific Regional Acts.

Several provisions in Bill 26 relate to northern municipalities however, there is no venue for extending the boundaries of existing northern municipalities into territory without municipal organization. Municipalities in the North have long maintained that residents on the fringes outside municipal boundaries use municipal services. There should be a way of offering adequate representation to benefit those residents, as well as to recover the costs of the additional pressure on such services.

Inclusion of the new municipal restructuring provisions in the Municipal Act has made many of the provisions in the Municipal Boundary Negotiations Act, 1981 redundant. Consequently, the Municipal Boundary Negotiations Act could be repealed, if there was a process in the Municipal Act to allow for appointment of a mediator or arbitrator where no agreement has been reached among municipalities in restructuring discussions.

At present, migration of specific services between municipal levels is allowed through various statutes. Regulation 215/96 allows for migration of some services - such as transit, economic development, fire services and licensing - between tiers with agreement. Water and sewer services can only migrate from the lower tier to the upper tier. The Building Code and the Public Libraries Act also contain allowance for service migration under certain conditions. The Municipal Administration Sub-panel is of the opinion that there is a potential for extending the migration provisions to all municipal functions, as well as to additional services.

Current legislation is very prescriptive with respect to incorporation of new municipalities and changing municipal status and name. To implement such changes municipalities must obtain Ontario Municipal Board approval. It is the Sub-panel's view that this approach is inflexible and inconsistent with the principle of increased municipal self-reliance. We do not see a provincial interest in retaining such provisions.

- Therefore, the Sub-panel recommends that a legislative framework be developed to allow regions and municipalities within regions to review and implement structural change.
- The Sub-panel also recommends that the Municipal Restructuring Regulation be amended to permit creation of upper tier municipalities in northern Ontario that include territory without municipal organization within their boundaries.
- The Sub-panel proposes that the Municipal Boundaries Negotiation Act, 1981 be repealed, however the provision in the new Municipal Act to appoint a mediator or arbitrator when no agreement can be reached among municipalities in restructuring discussions should be retained.
- The Sub-panel also recommends that the Ministry of Municipal Affairs and Housing, in co-operation with other Ministries, broaden the service migration provisions so that any function or service delivered by a lower tier or by an upper tier may migrate to the other level, provided that there is agreement.
- The Sub-panel recommends provisions of a new Municipal Act as outlined in the appended document regarding municipal incorporation and changing of status and name.

Municipal Accountability/Authority

While the Better Local Government Act, 1996 focuses on governance reforms with respect to municipal elections and council's accountability, there are several matters which are still outstanding. These pertain to the roles of council and the head of council, council's interface with municipal staff, how council vacancies are filled, notice and appeal provisions.

Municipal council is a collective body that has the responsibility to represent its electors, to develop the policy of the municipality and to act as employer of municipal staff. The head of council is the first among equals, who presides over council meetings and provides leadership. The head of council may also carry out other duties as described in legislation or as assigned by the council. The roles and responsibilities of this collective body and its head should be generally outlined in legislation. Councils could then add such duties as warranted.

The Sub-panel would like to underscore that there should be a sharp line drawn between the governing powers exercised by a council and the administrative responsibilities of municipal staff. Council is responsible for setting out municipal policy. The staff are charged with researching, providing advice and implementing Council's policy direction. This type of clear statement in legislation will prevent ambiguity.

In the legislation there is no need to describe positions, just functions. Prescription of positions makes it difficult for municipalities to re-organize their administration or combine functions to achieve greater efficiency and cost-savings. The Province does not have an interest in prescribing how a municipality organizes its administration. It does, however, have an interest in ensuring that municipalities state openly for the benefit of ratepayers how they are organized administratively.

It is important that the provisions for filling temporary and permanent vacancies on council be consistent, flexible and provide council with adequate authority to act. Such consolidated provisions should be applied to temporary and permanent vacancies, as well as in emergency situations.

Whether and how to give notice becomes an issue that council must deliberately turn its mind to when using its governmental power. We recognize that municipalities are in the best position to determine the most appropriate means for giving notice in a particular situation. Yet here again, we believe that they should openly state how they intend to notify people affected by their decisions.

The Sub-panel addressed the question of whether the current practice of having municipal regulatory by-laws subject to approval and appeal by the Ontario Municipal Board is necessary. Recognizing the local policy-making role, the Sub-panel concluded that municipal councils, not the Ontario Municipal Board, should be accountable for what is regulated and how it is regulated by a municipality. The municipality should also explicitly set out a procedure in its procedural by-law for the public to have a fair opportunity to represent its views to council.

But, the Sub-panel recognizes certain areas in which there is a provincial interest to guard the public's rights. These areas include: by-law enforcement decisions, financial matters, issues related to municipal structure and council organization, and planning subjects already contained in the Planning Act. In these areas there should continue to be a uniform appeal process.

- **The Sub-panel recommends that the new Municipal Act set out general duties of Council as a collective body and of the Head of Council.**

- It is also proposed that the functions of municipal administration be set out as distinct from Council, with specific indication that elected officials may not be appointed, elected or assigned to administrative functions.
- To ensure that there is a clear responsibility for the administrative function, it is proposed that the new Municipal Act require council to appoint an administrative head. In addition, council may appoint other officers - such as a treasurer or financial officer. However, where council does not appoint additional officers to perform functions, the Administrative Head is responsible for undertaking such duties or appointing staff to carry out such duties.
- With respect to notice provisions, the Sub-panel recommends that councils be given the authority to decide the notice provisions for their municipality. However, they be required to pass a procedural by-law outlining the policy framework. At the time of proposal or passage of any by-law the municipality should be required to indicate which provisions of its procedural by-law apply or whether no notice will be given.
- The Sub-panel recommends filling of council vacancies and appeals of regulatory by-laws as outlined in the attached document.

Financial Issues

The overall thrust of the municipal reform initiative is to streamline requirements, increase local autonomy and reduce costs. However, municipalities are accountable for collecting and spending public funds. Municipalities must retain the confidence of residents, taxpayers, financial institutions and others. Therefore, the goal of the financial reporting and administrative provisions in the new Municipal Act should be to effectively foster financial disclosure, accountability and sound management. Consequently, these provisions should be more prescriptive than those in other parts of the Act.

The Sub-panel fully supports the need for clearly defined financial practices. Notwithstanding this support we would like to express our strong concern about requiring municipalities to do their financial reporting according to the Public Sector Accounting and Auditing Board (PSAAB) standards. We question the appropriateness of imposing PSAAB accounting standards at this time. These new accounting requirements could result in staffing and technological costs at a time

when municipalities can least afford them. And, the cost of making financial provisions for future obligations, some of which may be reduced or deferred over-time, are not clear. All such costs should be quantified before this direction is taken.

- **The Sub-panel recommends that the Province defer proceeding with the Public Sector Accounting and Auditing Board standards for municipalities, until such time as a study has been completed on the resulting costs for sample municipalities.**
- **The Sub-panel recommends as in the attached document with respect to other financial reporting and administration requirements, economic development, municipal tax collection and recovery of monies, user fees, municipal tax sales, and special area taxation.**

This is the second set of proposals regarding municipal reform. It is our intention to provide further recommendations to assist the Government.

Sincerely yours,



David Crombie
Chair
WDW Panel



Peter Meyboom
Chair
Municipal Administration Sub-panel

att.

cc. Who Does What Panel
Municipal Advisors to Sub-Panel

December 5, 1996

Recommendations of the Sub-Panel on Municipal Administration on Stage II of Municipal Reform

I. NEW LEGISLATIVE FRAMEWORK

It is recommended that:

- 1.1 The new Municipal Act be based on a model which gives municipalities: 1) the powers of a natural person to enable them to carry out their corporate and administrative activities; 2) governmental powers to allow them to make and enforce by-laws and to raise revenues within broad areas of responsibility.

The broad municipal areas of responsibility be recognized as:

- health, safety and well being of people;
 - protection of persons and property;
 - sewer and water services, and other public utilities;
 - waste management: collection, removal, recycling and disposal;
 - drainage and flood control;
 - roads, bridges and sidewalks, including traffic and parking control;
 - transportation systems;
 - cultural, historical and recreational services and facilities;
 - economic development and tourism;
 - regulation of businesses and business owners or operators (including, home occupations);
 - nuisances (such as, odours, emissions, noise etc.);
 - conservation of the natural environment;
 - structures not subject to the Building Code, including fences;
 - control of domestic animals and nuisance wildlife.
- 1.2 The Act provide that no by-law should conflict with provincial or federal statute or regulation. Stipulate that the Lieutenant-Governor-in-Council may, by Regulation, limit municipal authority to pass by-laws. Such a Regulation to sunset within two (2) years and must be replaced by legislation if it is to continue.
- 1.3 Where it is necessary to protect the provincial interest, exceptions, exclusions and special provisions be set in legislation.

- 1.4 To minimize duplication, as much as possible, municipal provisions in other Acts should be consolidated within the new Municipal Act.
- 1.5 Except under circumstances considered by the Minister to be an emergency, in the formulation or review of regulations under the Act, the Minister consider providing an opportunity for consultation with and seek the advice and recommendations of the municipal sector.

II. MUNICIPAL INCORPORATION, STATUS & NAME

It is recommended that:

- 2.1 The new Municipal Act provide a process for incorporation of new municipalities.
- 2.2 The new Municipal Act allow all municipalities to change their status or name by by-law, with limitations similar to those imposed under O. Reg. 143/96 which eliminates appeals and notice to the OMB:
 - a) in a two-tier municipal government system, the upper-tier municipality has the status of county, district or region, and the lower-tier municipalities have the status of city, town, village or township;
 - b) a local municipality that does not form part of county for municipal purposes has the status of a city, town, village or township;
 - c) the name of the municipality is not the same as the name of any other municipality in Ontario.

III. MUNICIPAL STRUCTURE

It is recommended that:

- 3.1 The new Municipal Act preserve the restructuring provisions for local solution and approaches in counties and territorial districts that had been introduced in Bill 26.

However, the Ministry of Municipal Affairs and Housing review the triple majority requirement in context of improving the effectiveness of the Government's restructuring policy.

- 3.2 The Municipal Boundary Negotiations Act be repealed, but retain the provision in the new Municipal Act to appoint a mediator/arbitrator when no agreement can be reached among municipalities in restructuring discussions.
- 3.3 A legislative framework be developed to allow regions, and municipalities within regions, to review and implement structural change.
- 3.4 The new Act preserve the ability of an isolated municipality in the North, or for the Minister, with the approval of Cabinet, to apply to the Ontario Municipal Board to annex an adjacent unorganized area.
- 3.5 The restructuring regulations under the present Municipal Act be amended to permit the establishment of upper tier municipalities in northern Ontario that include territory without municipal organization within their boundaries.
- 3.6 Amend the present provisions on restructuring in the Municipal Act so that Cabinet could make regulations on municipal restructuring that are not just general, but also specific in their application.
- 3.7 The Ministry of Municipal Affairs and Housing, in co-operation with other Ministries, broaden the function and service migration provisions so that all functions and services delivered by a lower tier or by an upper tier may migrate to the other level, provided that there is agreement.
- 3.8 No change be made to the existing process for dissolving municipalities.

IV. MUNICIPAL ACCOUNTABILITY/AUTHORITY

It is recommended that:

- 4.1 General duties for members of council and for heads of council be described in the new Municipal Act. This means that it be made clear that councillors are part of council, a collective body, and that they are responsible for representing their electors, approving the policy of the municipality, and acting as employer to municipal staff. The Head of Council provides leadership, presides over meetings of council and carries out other duties that are set out in legislation or assigned by council.
- 4.2 A declaration of office only be required when municipal councillors take office.
- 4.3 The duties of the municipal administration be set out as distinct from those of council, with specific indication that elected officials may not be appointed, elected or assigned to administrative functions.

- 4.4 Municipalities be required to establish their organizational structure by by-law to fulfil the administrative functions.
- 4.5 Municipalities be required by by-law to appoint a head of administration, and may appoint other officers or delegate the appointment of such officers to the head of administration. The head of administration may be assigned other specific responsibilities (such as those of clerk; treasurer; and so on).
- 4.6 With respect to public notice it is recommended that:
- a) municipalities have the authority to determine whether and how to give notice in the case of both their proposed and passed by-laws;
 - b) municipalities be required to set out their policy framework on notice in their procedural by-laws;
 - c) when proposing or passing any specific regulatory by-law, municipal councils must indicate which provisions of the procedural by-laws apply to notification about the by-law or whether different notice than set out in the procedural by-law will be given or whether no notice will be given.
- 4.7 Provisions in various Acts pertaining to filling of vacancies on all municipal councils be consolidated in the new Municipal Act and they be streamlined, consistent and more flexible. These provisions to generally include the following:
- a) local municipalities may appoint a substitute to fill a temporary upper-tier council vacancy for indirectly elected upper-tier representatives;
 - b) filling a permanent council vacancy is mandatory, except within 90 days of Nomination Day;
 - c) council may fill a permanent vacancy by appointing a replacement or by calling a by-election;
 - d) council be required to fill a permanent vacancy by appointment within 60 days, or by calling a by-election within 60 days, of a council position becoming vacant;
 - e) where the position of upper-tier head of council becomes vacant and:
 - i. the head has been elected from within council, council must fill the vacancy either from within or choose any qualified elector;
 - ii. the head is directly elected, council may fill the position by appointment or by by-election;
 - f) appointment to permanent vacancy/ies must be decided by secret ballot.

- 4.8 With respect to regulatory issues (not including planning or financial matters) it is recommended that the Act provide that:
- a) municipal councils are accountable for what is regulated and how it is regulated without approval of, or appeal to, the Ontario Municipal Board (OMB);
 - b) municipalities be required to establish a policy in their procedural by-law regarding the regulatory matters that will be subject to public meetings/hearings; and,
 - c) municipalities be required to set out in a procedural by-law the procedure to provide the public “a fair opportunity to make representation” at such hearings/public meetings.
- 4.9 Municipal council be authorized to delegate the responsibility for holding a public meeting/hearing on a regulatory issue (not including planning or financial matters). However, municipal council be prohibited from delegating the authority to make a policy decision on a regulatory issue. Consequently, the body to which the public meeting/hearing function is delegated be limited to gathering information and providing feedback and advice to council.

V. FINANCIAL REPORTING & ADMINISTRATION

It is recommended that legislation:

- 5.1 In addition to an annual audit, mandate a supplementary audit report similar to that required by the Province of Manitoba. This report to contain:
- a management letter;
 - a statement of opinion as to whether the accounting procedures and systems of control are adequate to preserve and protect its assets;
 - a statement as to whether the funds have been disbursed only under legislative authority;
 - a statement as to any irregularity or discrepancy in the administration of the affairs of the municipality; and,
 - a statement as to whether there are any other matters which should be brought to the attention of council.

- 5.2 The Ministry of Municipal Affairs and Housing explore further the potential benefits and costs of requiring a comprehensive audit before contemplating such a requirement.
- 5.3 Give municipalities the flexibility to determine how they carry out their financial administration responsibilities. The head of administration may appoint an employee responsible for the financial administration of the municipality reporting through the head of administration to council. Alternatively the head of administration may personally undertake these duties.
- 5.4 Eliminate the requirement that council re-examine the appointment of the auditor every five (5) years.
- 5.6 Provide that the auditor reports to council and the head of administration.
- 5.7 Before making the final decision about proceeding with the Public Sector Accounting and Auditing Board (PSAAB) standards for municipalities the Ministry of Municipal Affairs and Housing, in co-operation with the municipal sector, carefully analyse the cost impact and other impacts on the municipalities.
- 5.8 If, after careful analysis of PSAAB's cost impact and other impacts, the Government decides to proceed with PSAAB standards for municipalities that:
- a) legislation give the Minister the power by regulation to establish items for which a phase-in is permitted and the appropriate length of phase-in for each item.
 - b) when the differences between the Municipal Reporting Handbook and PSAAB are documented, the Minister consult with the municipal sector on which items require phase-in and the appropriate phase-in period.
 - c) when the impacts of moving to PSAAB standards are known, consideration be given to not requiring past vested sick leave benefits and Workers Compensation liabilities to be budgeted for.
- 5.9 Where the audited statements of a board, agency or commission are consolidated with those of the municipality, give municipalities the flexibility to choose whether to have a single, consolidated audit opinion or to have separate audited opinions for such boards, agencies or commissions.
- 5.10 Discontinue specifying in Municipal statutes requirements that are already part of the Institute of Chartered Accountants professional requirements under Generally Accepted Auditing Standards (GAAS). Eliminate requirements on the auditor which GAAS dictates are management responsibility.

- 5.11 Discontinue requirement to report on each separate reserve fund, except development charges reserve fund reporting and provisions for reporting in other statutes.
- 5.12 Maintain the current requirement for the individual assigned the financial duties (currently the treasurer) to be bonded, but without having to provide the bond in person.
- 5.13 Give clear authority for persons assigned the financial duties (currently treasurers) to make allowances for the purposes of financial statements (e.g. for doubtful accounts) without approval of Council.
- 5.14 Discontinue provisions that are outdated, for example: that the county warden appoint an acting Treasurer by warrant; that the auditor inspect the surety bond; that the treasurer may open a petty cash account.

VI. ECONOMIC DEVELOPMENT

Municipal Act

- 6.1 Identify economic development as an area of municipal responsibility and consolidate all legislation pertaining to economic development.
- 6.2 Retain the current prohibition on bonusing in Section 111 of the current Municipal Act.
- 6.3 Revise Section 220 of the Municipal Act to:
 - a) set out the mandate of the Business Improvement Area (BIA);
 - b) maintain municipal authority to designate a Business Improvement Area;
 - c) remove the possibility of an OMB approval for Business Improvement Area by-laws and maintain the provision that, where objections have been received within 60 days from one-third or more of those subject to notice, and those objections represent one-third or more of the assessed value of property that may be subject to the BIA levy, the municipality may not pass the by-law;
 - d) provide municipal authority to apply and to collect a levy for the purposes of the Business Improvement Area.
- 6.4 Set out regulations for the set up, budgeting, operation, dissolution and other matters pertaining to the Business Improvement Areas.

Planning Act

- 6.5 Clarify the intent of Section 28(7) of the Planning Act that permits a municipality to provide grants or loans to property owners in a community improvement project area for the purpose of rehabilitating and redeveloping the lands and buildings in conformity with an approved community improvement plan.
- 6.6 Remove the power for the municipality to issue debentures for the purpose of community improvement at the expiry of 40 years as the approval of Ontario Municipal Board provides.
- 6.7 Explore whether the remaining sub-sections of Section 28 of the Planning Act are required or if the powers are contained in other legislation.

VII. USER FEES

- 7.1 Clarify and streamline various Acts which contain specific user fee provisions that are overridden by section 220.1 of the Municipal Act (Bill 26) by:
 - eliminating all specific user fee provisions in various Acts except those which are currently “deemed” as taxes, hence giving municipalities priority lien status for collection proposes; and,
 - providing transitional provisions so that existing by-laws are not affected by this general elimination of powers.
- 7.2 As a general principle, there should be no unilateral authority for municipalities to charge user fees to other levels of municipal government for Provincially mandated functions, including tax collection and elections unless there is agreement to cost-share between the parties. Paying for a by-election may be an example of such a special circumstance.

VIII. MUNICIPAL TAX COLLECTION & RECOVERY OF MONIES

- 8.1 Allow tax collecting municipalities in counties and in regions to enter into agreements with the other level of municipal government regarding instalments.

- 8.2 In the absence of an agreement the following dates will apply:
- 25 per cent of the prior year's amount required for upper-tier purposes by March 31st
 - 50 per cent of the current year's amount less the previous instalment (i.e. 25% of the year's amount) required for upper-tier purposes by June 30st
 - 25 per cent of the current amount required for upper-tier purposes by September 30th
 - 25 per cent of the current amount required for upper-tier purposes by December 15th
- 8.3 Repeal the Municipal Interest and Discount Rates Act.
- 8.4 Permit municipalities to establish the penalty rate charged for late payment of taxes.
- 8.5 Require municipalities to pay those who make involuntary overpayments of taxes (ie. because of a clerical error or an assessment appeal), the same rate of interest as they charge those who make late tax payments.
- 8.6 Municipalities to have the discretion to give discounts, at a rate of their choice, for voluntary payments made in advance.
- 8.7 Use only the term 'deemed as taxes' to refer to items which are to be added to the collector's roll and have priority lien status.
- 8.8 Use only the term 'collected in a like manner as taxes' to refer to items which are to be added to the collector's roll but do not have priority lien status.
- 8.9 Do not permit any additional items to be deemed as taxes without a careful review of the implications for mortgage financing. A review of the existing additions be conducted giving consideration to making them "in like manner as taxes" if they do not enhance the property value.
- 8.10 Authorize municipalities to add the reasonable costs of collection to the amount owing. The debtor could challenge the costs of collection in court if he/she believes them to be unreasonable.
- 8.11 Permit municipalities to sell their receivables, including tax receivables, at a discount.
- 8.12 Base the annual interim levy on 50% of the property class tax rate for the previous year.
- 8.13 Update the legislation by changing the term "certified assessment roll" to "returned roll".
- Note: The Assessment Review Board no longer certifies the assessment roll because of delays in finalizing assessment appeals.
- 8.14 Amend section 443 of the current Municipal Act so that certain complaints/appeals under

the Assessment Act do not automatically disqualify the ratepayer from applying for a tax adjustment.

- 8.15 Since penalty charge is applied to prior years' arrears and current years' unpaid taxes, make all unpaid taxes subject to late payment charges.
- 8.16 By Regulation, increase the minimum tax to \$50. Municipalities to have the authority to choose whether or not to use this amount or some lower amount.
- 8.17 Change the reference pertaining to bailiff fees from the Courts of Justice Act to the Costs of Distress Act since this statute authorizes the fees.
- 8.18 Permit a partial tax reduction where an in-year status change occurs from a rental apartment (assessed as a multi residential unit) to an owner-occupied condominium (assessed as a single family unit).
- 8.19 Include the means to allow municipalities to have a monthly billing system at the same time as they have an instalment system for property taxes. Presently it is virtually impossible for a municipality to have an instalment system and a monthly billing system at the same time since at some period in the year, those on monthly billing arrangements are likely to be in an arrears situation.
- 8.20 Clarify that municipalities may not declare realty taxes to be uncollectible except after an unsuccessful tax sale (cancellation price not achieved).

The Act to clarify or specify that a tax sale can be halted at any point in the process before a vesting certificate has been registered.

IX. TAX SALES

It is recommended that:

- 9.1 The Municipal Tax Sales Act be streamlined and incorporated into the new Municipal Act.
- 9.2 The eligibility period for tax registration be the same for improved land and unimproved land to eliminate the need to distinguish between the two types of property. Establish the eligibility period be set at three (3) years so that ratepayers experiencing financial difficulty have enough time to sort out their finances.

- 9.3 With respect to environmentally contaminated property, it is recommended that:
- a) the Ministry of Municipal Affairs and Housing encourage the Ministry of Environment and Energy to enter into an agreement with the municipal sector similar to the agreement with secured lenders which will help to reduce uncertainty surrounding potential liability of municipalities regarding contaminated properties. Municipalities should be afforded a similar level of certainty and protection that secured investors are enjoying. This would allow municipalities to use the municipal tax sales provisions as originally intended.
 - b) municipalities address the problem of having to pay levies relating to uncollectible taxes by appealing the assessment on the grounds of impairment. It is further recommended that the appeals process with respect to contaminated sites be given priority in the appeals process.
- 9.4 Permit third parties who have an interest/stake in a property (e.g. spouses or mortgagees) to enter into extension agreements to extend the period of time in which the cancellation price is to be paid. This would protect the interest of these non-registered owners in the property.
- 9.5 Give municipalities the discretion in the Act to sever mobile homes not owned by the park operator from the land in conducting a tax sale.
- 9.6 With respect to charge backs it is recommended that the new Act:
- a) Make it clear that the existing Municipal Act provision allowing for charge backs applies where a property vests in a municipality as a result of an unsuccessful tax sale; and,
 - b) If a municipality, after having a property vest in its name is able to sell the property, the bodies which were charged back should be reimbursed a proportionate share of the sale price, less administrative costs. In order to limit administrative costs, reimbursement should occur only where the cancellation price is greater than ten thousand dollars (>\$10,000.).
- 9.7 The following housekeeping changes are recommended to streamline the provisions in the Municipal Tax Sales Act:
- a) Deem all the properties, which have been registered for tax sale under the old Act, to be vested in the municipality, one year after proclamation of the Act, regardless of whether a notice of forfeiture has been registered by the municipality. The one year time period would give municipalities time to return the property to the original owner. The reason for this is to allow municipalities to investigate the property for any potential environmental concerns.

- b) Clarify that where a municipality becomes the owner of a property as a result of an unsuccessful tax sale, that it not be required to pay a land transfer tax. However, if the municipality is the successful purchaser of a property at a tax sale, it will be required to pay the land transfer tax, like any other purchaser at a tax sale, public or private. The proposed amendment will apply only where there is no successful purchaser.

X. SPECIAL AREA TAXATION

It is recommended that:

- 10.1 In case of restructuring (amalgamation or annexation) give municipalities the authority to area rate between geographic areas which were formerly part of separated municipalities.
- 10.2 Where the need for area rating arises because of differences in municipal services, permit municipalities to area rate for as long as they consider appropriate.
- 10.3 Where the need for area rating arises because of the need to bring more equity with respect to assets and liabilities brought to the new municipality by formerly separated areas, permit the area rate for fifteen (15) years.
- 10.4 Where there has not been restructuring, permit area rating only with respect to property related capital installments. The rating period should not exceed the lesser of the life of the asset or the time it takes to recoup the cost of the asset.

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